IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 9TH JULY 2007 / 18TH ASHADHA 1929

Bail Appl..No. 4125 of 2007()

CRIME NO.79/07 OF THE KANJIKUZHI POLICE STATION
CRMP.1552/2007 of DISTRICT COURT, THODUPUZHA

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PETITIONERS: ACCUSED NOS 2,5,6,7,& 8

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1. FR.N.M.PAULOSE,NJATHUKALA HOUSE,
VALAMBOOR KARA,PATTIMATTOM VILLAGE,
THODUPUZHA.

2. ALICHAN,S/O VAREGHESE,
ERACHERIYIL HOUSE,KANJIKUZHI VILLAGE,
THODUPUZHA TALUK.

3. BINOY,S/O.VARGHESE,
ERACHERIYIL HOUSE,KANJIKUZHI VILLAGE,
THODUPUZHA TALUK.

4. MATHEW,S/O.ULAHANNAN,
VETTUCHIRAYIL HOUSE,KANJIKUZHI VILLAGE,
THODUPUZHA TALUK.

5. JOHNY,S/O.ULAHANNAN,
VETTUCHIRAYIL HOUSE,
KANJIKUZHI VILLAGE,
THODUPUZHA TALUK.

BY ADV. SRI.GEORGEKUTTY MATHEW

RESPONDENTS: COMPLAINANT

STATE OF KERALA REPRESENTED BY
PUBLIC PROSECUTOR,HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 09/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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B.A.No. 4125 of 2007

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Dated this the 9th day of July, 2007

O R D E R

Application for anticipatory bail. The petitioners face allegations, inter alia, under Sections 308 ands 324 r/w. 149 I.P.C. Altogether there are five petitioners. They are accused, 2, 5, 6,7 and 8 respectively, as pointed out by the learned Prosecutor. They are allegedly involved in an incident relating to a fight between two groups in respect of rights over a Church. Crime has been registered. Investigation is in progress.

2. The learned counsel for the petitioners submits that the allegations are raised with malafide and oblique motives. The allegation under Section 308 I.P.C. has been brought in only to ensure unjustified detention of the petitioners without bail. The injuries suffered are simple. In these circumstances directions under Section 438 cr.P.C. may be issued to save the petitioners from the undeserved trauma of arrest and detention, submits the counsel.

3. The learned Prosecutor opposes the application. The nature of the weapons used and the criminal antecedents of some of the

petitioners must be taken into account. Grant of anticipatory bail to the petitioners would endanger the law and order situation in the locality. In these circumstances if this court were inclined to grant bail, the same may be only with appropriate and stringent conditions.

4. Having considered all the relevant inputs, I am satisfied that directions under section 438 Cr.P.C. can be issued in favour of the petitioners.

5. In the result:

(1) This application is allowed.

(2) The following directions are issued under Section 438 Cr.P.C.

(a) The petitioners shall surrender before the learned Magistrate on 16.7.2007 at 11 a.m. The learned Magistrate shall release them on regular bail on condition that they execute bonda for Rs.25,000/- (Rupees twenty five thousand only) each with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

(b) The petitioners shall make themselves available for interrogation before the Investigating Officer between 10 a.m. and 3 p.m. on 17.7.07 and 18.7.2007. During this period, the Investigating Officer shall be entitled to interrogate the petitioners in custody and effect recovery, if any. Thereafter

they shall appear before the Investigating Officer as and when directed by the Investigating Officer in writing to do so.

(c) If the petitioners do not appear before the learned Magistrate as directed in clause (1) above, these directions shall lapse on 16.7.06 and the police shall be at liberty thereafter to arrest the petitioners and deal with them in accordance with law.

(d) If the petitioners were arrested prior to their surrender on 16.7.2006 as directed in clause (1) above, they shall be released on bail on their executing bonds for Rs.25,000/- each without any surety undertaking to appear before the learned Magistrate on 16.7.2007.

(R. BASANT)
Judge

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